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MAR 13 1979

HOUSE FILE 679

Place On Calendar

By COMMITTEE ON STATE GOVERNMENT
(Formerly House File 344)

Passed House, Date 3-26-79 (p. 1123) Passed Senate, Date _____
Vote: Ayes 90 Nays 6 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing a committee to review the regulation
2 of occupations.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. INTENT. The general assembly
2 finds that the right of every person to engage in a lawful
3 occupation or profession is a right which should not be
4 abridged except as a reasonable exercise of the state's police
5 power when it is clearly found to be necessary for the
6 preservation of the health, safety, and welfare of the public.

7 It is declared to be the policy of the state of Iowa that
8 no regulation shall be imposed on a profession or occupa-
9 tion except for the exclusive purpose of protecting the public
10 interest when:

11 1. Its unregulated practice can harm or endanger the
12 health, safety, and welfare of the public.

13 2. Its practice requires specialized skill or training
14 and the public needs and will benefit by assurances of ini-
15 tial and continuing professional and occupational ability.

16 3. The public is not effectively protected by other means.

17 Sec. 2. NEW SECTION. COMMITTEE ESTABLISHED.

18 1. There is created the "professional and occupational
19 regulation committee". The committee shall be bipartisan
20 and shall be composed of the following members:

21 a. Two senators, not more than one from any political
22 party, appointed by the president of the senate.

23 b. Two representatives, not more than one from any
24 political party, appointed by the speaker of the house.

25 c. Three persons, not more than two from any political
26 party, appointed by the governor.

27 2. A committee member shall be appointed for a term of
28 four years. A member shall serve until a successor is ap-
29 pointed. A vacancy on the committee shall be filled by the
30 original appointing authority for the remainder of the term.
31 A vacancy shall exist whenever a committee member ceases to
32 be a member of the house from which the member was appointed.

33 3. The persons appointed by the governor, and the legis-
34 lative members when the general assembly is not in session,
35 shall be paid forty dollars per diem and travel expenses from

1 the funds appropriated by section two point twelve (2.12)
2 of the Code.

3 4. The committee shall elect a chairperson and shall have
3493-4 all the powers of a standing committee, but it may meet at
5 any time at the call of the chairperson or a majority of its
6 members.

7 Sec. 3. NEW SECTION. DUTIES.

8 1. The committee on professional and occupational regula-
3443-
3455-9 tion may evaluate professions and occupations according to
10 the criteria listed in section one (1) of this Act and make
11 a recommendation to the general assembly whether the profession
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3455-12 or occupation should become or continue to be regulated by
13 the state and, if so, the degree of regulation that should
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3518-14 be imposed. The committee shall adopt a time schedule for
15 evaluating those professions and occupations that are being
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3493-16 regulated by the state.

17 2. If the committee determines that existing remedies
18 do not adequately protect the public health, safety or welfare,
19 it shall consider the following degrees of regulation of the
20 practice of that occupation or profession in the order they
3495-21 appear below:

22 a. Statutory change to provide stricter causes for civil
23 action and criminal prosecution.

24 b. Inspection of the practitioner's premises and activities
25 and authorization of an appropriate state agency to enjoin
26 an activity which is detrimental to the public health, safety
27 or welfare.

28 c. Registration of a practitioner's location, nature and
29 operation of practice.

30 d. Certification by an appropriate state agency that a
31 practitioner has the minimum skills to properly engage in
32 the occupation or profession.

33 e. Licensure by an appropriate state agency of the pro-
34 fession or occupation.

35 3. In determining the proper degree of regulation, if

1 any, the committee shall determine the following:

2 a. Whether the practitioner performs a service for indivi-
3 duals which, if unregulated, involves a hazard to the public
4 health, safety or welfare.

5 b. The number of states which have regulatory provisions
6 similar to those proposed.

7 c. Whether the profession or occupation requires high
8 standards of public responsibility, character and performance
9 of each individual engaged in the profession or occupation,
10 as evidenced by established and published codes of ethics.

11 d. Whether the profession or occupation requires such
12 skill that the public generally is not qualified to select
13 a competent practitioner without some assurance that the
14 practitioner has met minimum qualifications.

15 e. Whether the professional or occupational associations
16 do not adequately protect the public from incompetent, un-
17 scrupulous or irresponsible members of the profession or
18 occupation.

19 f. Whether current laws which protect the public health,
20 safety and welfare generally are ineffective or inadequate.

21 g. Whether the characteristics of the profession or oc-
22 cupation make it impractical or impossible to prohibit those
23 practices of the profession or occupation which are detrimen-
24 tal to the public health, safety and welfare.

25 h. Whether the practitioner performs a service for others
26 which may have a detrimental effect on third parties rely-
27 ing on the expert knowledge of the practitioner.

28 Sec. 4. This Act is repealed four years after the effec-
29 tive date of this Act.

17,3443,
1123

30 EXPLANATION

31 The bill establishes a committee on professional and
32 occupational regulation. The commission consists of three
33 citizens appointed by the governor, two senators and two
34 representatives. The committee may evaluate occupations on
35 the basis of criteria listed in the bill and make a

1 recommendation to the general assembly as to whether and to
2 what degree an occupation should be regulated. The bill
3 provides a priority of degrees of regulation to be considered.

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FISCAL NOTE
HOUSE FILE 679
Requested by Representative Crawford
March 16, 1979

In compliance with a written request, there is hereby submitted a Fiscal Note for House File 679 pursuant to Joint Rule 16.

House File 679, An Act establishing a committee to review the regulation of occupations.

The bill establishes a committee on professional and occupational regulation. The commission consists of three citizens appointed by the governor, two senators and two representatives. The committee may evaluate occupations on the basis of criteria listed in the bill and make a recommendation to the general assembly as to whether and to what degree an occupation should be regulated. The bill provides a priority of degrees of regulation to be considered.

The cost of the proposed committee is based on the following assumptions:

- 1. A seven member committee at \$40 plus expenses for an average per day cost of \$90.
- 2. The committee would meet six times per year.
- 3. The committee would have no permanent staff.

Estimated annual cost of \$5,000.

FILED
MARCH 16, 1979

GERRY D. RANKIN
Legislative Fiscal Bureau

FISCAL NOTE
HOUSE FILE 679
By Representative Hoffmann
March 16, 1979

In compliance with a written request, there is hereby submitted a Fiscal Note for H.F. 679, Amendment H-3447 pursuant to Joint Rule 16.
Amendment H-3447 to House File 679

The amendment changes the committee composition to five senators, five representatives and three non-voting gubernatorial appointees. The amendment also requires a systematic schedule of review for existing occupational and professional regulatory statutes.

The following assumptions were used to develop the cost estimate:

- 1) A thirteen member committee with \$40 plus expenses for an average daily cost per member of \$90.
- 2) Four meetings during the session in which only the gubernatorial appointees receive per diem and expenses.
- 3) Eight meetings during the remainder of the year in which all members receive per diem and expenses.
- 4) No permanent committee staff.

Estimated annual cost of \$10,440.

Additional fiscal impact which has not been estimated in this fiscal note may occur in the loss of license fee revenues and the reduction of state appropriations resulting from termination of the regulatory boards involved.

FILED MARCH 19, 1979

GERRY D. RANKIN
Legislative Fiscal Bureau

HOUSE FILE 679

H-3443

- 1 Amend House File 679 as follows:
2 1. Page 1, by striking line 17 through page 2,
3 line 6, and inserting in lieu thereof the following:
4 "1. There is created a joint standing committee
5 on agency review comprised of five senators appointed
6 by the president of the senate and five representatives
7 appointed by the speaker of the house. The joint
8 standing committee shall prescribe its own rules and
9 may meet at any time upon the call of its chairpersons
10 or a majority of its members. The members of the
11 joint standing committee shall be paid forty dollars
12 per day and necessary travel and actual expenses
13 incurred for attending meetings held when the general
14 assembly is not in session from the funds appropriated
15 by section two point twelve (2.12) of the Code.
16 2. The joint standing committee shall hold a
17 public hearing on each agency scheduled for review
18 by sections four (4) through nine (9) of this Act
19 in the year of review before March fifteenth of that
20 year. At the public hearing the joint standing
21 committee shall receive the testimony of the
22 administrator or governing body of the agency being
23 reviewed and may receive reports from other sources
24 and interested citizens.
25 3. After holding the public hearing the joint
26 standing committee shall make its recommendations
27 to each house of the general assembly regarding the
28 purpose, operation and continued existence of the
29 agency being reviewed. In making its recommendation
30 the joint standing committee shall consider the
31 following to the extent applicable:
32 a. The extent to which the regulatory agency has
33 permitted qualified applicants to serve the public.
34 b. The extent to which the agency has recommended
35 statutory changes to the general assembly which would
36 benefit the public as opposed to benefitting those
37 persons it regulates.
38 c. The extent to which the agency has required
39 the persons it regulated to report to it concerning
40 the impact of its rules and decisions on the public
41 with respect to improvement, economy, and availability
42 of service.
43 d. The extent to which persons regulated by the
44 agency have been required to assess problems in the
45 professions or vocations which affect the public.
46 e. The extent to which the agency has encouraged
47 public participation to its rules and decision making,
48 as opposed to participation solely by the persons
49 it regulates.
50 f. The degree of efficiency with which formal

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I-3443

1 public complaints concerning the persons regulated
2 by or the activity of the agency have been processed
3 to completion or forwarded to appropriate officials
4 for completion.

5 g. The extent to which the agency has considered
6 alternative methods to achieve the same or similar
7 program goals.

8 h. The extent to which the absence of the agency
9 would endanger the public health, safety, or welfare.

10 i. The extent to which regulation by the agency
11 directly or indirectly increases the costs of goods
12 or services to the public.

13 j. The extent to which the agency has efficiently
14 and effectively used the resources available to it
15 for the purposes intended by the general assembly."

16 2. Page 2, by striking lines 8 and 9 and inserting
17 in lieu thereof the following:

18 "1. The joint standing committee on agency review
19 may also evaluate professions and occupations which
20 are not regulated by the state according to".

21 3. Page 2, line 12, by striking the words "or
22 continue to be".

23 4. Page 2, by striking lines 14 through 16 and
24 inserting in lieu thereof the words "be imposed."

25 5. Page 3, by inserting after line 27 the
26 following:

27 "Sec. 4. NEW SECTION.

28 1. The following state agencies shall be reviewed
29 as provided in section two (2) of this Act in 1981
30 and every six years thereafter: the department of
31 public defense, the campaign finance disclosure
32 commission, the occupational safety and health review
33 commission, the board of physical therapy examiners,
34 the board of nursing examiners, the board of psy-
35 chology examiners, the unified state mental health
36 agency, the commission on the aging of the state of
37 Iowa, the department of public instruction, the Iowa
38 state historical department, the Iowa natural resources
39 council, and the department of environmental quality.

40 2. The following are repealed effective July 1,
41 1982:

42 a. Chapter twenty-nine (29) of the Code relating
43 to the department of public defense.

44 b. Chapter fifty-six (56) of the Code relating
45 to the campaign finance disclosure commission.

46 c. Chapter eighty-eight (88) of the Code relating
47 to the occupational safety and health review
48 commission.

49 d. Chapter one hundred forty-eight A (148A) of
50 the Code relating to the board of physical therapy

1 examiners.

2 e. Chapter one hundred fifty-two (152) of the
3 Code relating to the board of nursing examiners.

4 f. Chapter one hundred fifty-four B (154B) of
5 the Code relating to the board of psychology examiners.

6 g. Chapter two hundred twenty-five B (225B) of
7 the Code relating to the unified state mental health
8 agency.

9 h. Chapter two hundred forty-nine B (249B) of
10 the Code relating to the commission on the aging of
11 the state of Iowa.

12 i. Chapter two hundred fifty-seven (257) of the
13 Code relating to the department of public instruction.

14 j. Chapter three hundred three (303) of the Code
15 relating to the Iowa state historical department.

16 k. Chapter four hundred fifty-five A (455A) of
17 the Code relating to the Iowa natural resources
18 council.

19 l. Chapter four hundred fifty-five B (455B) of
20 the Code relating to the department of environmental
21 quality.

22 Sec. 5. NEW SECTION.

23 1. The following state agencies shall be reviewed
24 as provided in section two (2) of this Act in 1982
25 and every six years thereafter: the office for
26 planning and programming, the capitol planning
27 commission, the public employment relations board,
28 the department of public safety, the state board of
29 engineering examiners, the board of examiners of
30 shorthand reporters, the board of chiropractic
31 examiners, the Iowa state fair board, the Iowa housing
32 finance authority, the board of parole, the Iowa
33 library department, the department of soil
34 conservation, and the Iowa state civil rights
35 commission.

36 2. The following are repealed effective July 1,
37 1983:

38 a. Chapter seven A (7A) of the Code relating to
39 the office for planning and programming.

40 b. Chapter eighteen A (18A) of the Code relating
41 to the capitol planning commission.

42 c. Chapter twenty (20) of the Code relating to
43 the public employment relations board.

44 d. Chapter eighty (80) of the Code relating to
45 the department of public safety.

46 e. Chapter one hundred fourteen (114) of the Code
47 relating to the state board of engineering examiners.

48 f. Chapter one hundred fifteen (115) of the Code
49 relating to the board of examiners of shorthand
50 reporters.

- 1 g. Chapter one hundred fifty-one (151) of the
- 2 Code relating to the board of chiropractic examiners.
- 3 h. Chapter one hundred seventy-three (173) of
- 4 the Code relating to the Iowa state fair board.
- 5 i. Chapter two hundred twenty (220) of the Code
- 6 relating to the Iowa housing finance authority.
- 7 j. Chapter two hundred forty-seven (247) of the
- 8 Code relating to the board of parole.
- 9 k. Chapter three hundred three A (303A) of the
- 10 Code relating to the Iowa library department.
- 11 l. Chapter four hundred sixty-seven A (467A) of
- 12 the Code relating to the department of soil
- 13 conservation.
- 14 m. Chapter six hundred one A (601A) of the Code
- 15 relating to the Iowa state civil rights commission.
- 16 Sec. 6. NEW SECTION.
- 17 1. The following state agencies shall be reviewed
- 18 as provided in section two (2) of this Act in 1983
- 19 and every six years thereafter: the Code editor,
- 20 the executive council, the board of accountancy, the
- 21 Iowa department of substance abuse, the state health
- 22 facilities council, the board of optometry examiners,
- 23 the board of pharmacy examiners, the Iowa depart-
- 24 ment of agriculture, the geological board, the state
- 25 archeologist, the Iowa state commerce commission,
- 26 the Iowa commission for the blind, and the board of
- 27 law examiners.
- 28 2. The following are repealed effective July 1,
- 29 1984:
- 30 a. Chapter fourteen (14) of the Code relating
- 31 to the Code editor.
- 32 b. Chapter nineteen (19) of the Code relating
- 33 to the executive council.
- 34 c. Chapter one hundred sixteen (116) of the Code
- 35 relating to the board of accountancy.
- 36 d. Chapter one hundred twenty-five (125) of the
- 37 Code relating to the Iowa department of substance
- 38 abuse.
- 39 e. Sections one hundred thirty-five point sixty-
- 40 one (135.61) through one hundred thirty-five point
- 41 eighty-three (135.83) of the Code relating to the
- 42 state health facilities council.
- 43 f. Chapter one hundred fifty-four (154) of the
- 44 Code relating to the board of optometry examiners.
- 45 g. Chapter one hundred fifty-five (155) of the
- 46 Code relating to the board of pharmacy examiners.
- 47 h. Chapter one hundred fifty-nine (159) of the
- 48 Code relating to the Iowa department of agriculture.
- 49 i. Chapter three hundred five (305) of the Code
- 50 relating to the geological board.

1 j. Chapter three hundred five A (305A) of the
2 Code relating to the state archeologist.

3 k. Chapter four hundred seventy-four (474) of
4 the Code relating to the Iowa state commerce
5 commission.

6 l. Chapter six hundred one B (601B) of the Code
7 relating to the Iowa commission for the blind.

8 m. Chapter six hundred ten (610) of the Code
9 relating to the board of law examiners.

10 Sec. 7. NEW SECTION.

11 1. The following state agencies shall be reviewed
12 as provided in section two (2) of this Act in 1984
13 and every six years thereafter: the office of state
14 comptroller, the department of general services, the
15 Iowa development commission, the Iowa department of
16 veterans affairs, the Iowa real estate commission,
17 the board of architectural examiners, the Iowa state
18 board of examiners for nursing home administrators,
19 the board of podiatry examiners, the board of mortuary
20 science examiners, the department of social services,
21 the governor's committee on employment of the
22 handicapped, the office of citizens' aide, the clerk
23 of the supreme court and the court administrator of
24 the judicial department.

25 2. The following are repealed effective July 1,
26 1985:

27 a. Chapter eight (8) of the Code relating to the
28 office of state comptroller.

29 b. Chapter eighteen (18) of the Code relating
30 to the department of general services.

31 c. Chapter twenty-eight (28) of the Code relating
32 to the Iowa development commission.

33 d. Chapter thirty-five A (35A) of the Code relating
34 to the Iowa department of veterans affairs.

35 e. Chapter one hundred seventeen (117) of the
36 Code relating to the Iowa real estate commission.

37 f. Chapter one hundred eighteen (118) of the Code
38 relating to the board of architectural examiners.

39 g. Chapter one hundred thirty-five E (135E) of
40 the Code relating to the Iowa state board of examiners
41 for nursing home administrators.

42 h. Chapter one hundred forty-nine (149) of the
43 Code relating to the board of podiatry examiners.

44 i. Chapter one hundred fifty-six (156) of the
45 Code relating to the board of mortuary science
46 examiners.

47 j. Chapter two hundred seventeen (217) of the
48 Code relating to the department of social services.

49 k. Chapter six hundred one F (601F) of the Code
50 relating to the governor's committee on employment

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1 of the handicapped.

2 1. Chapter six hundred one G (601G) of the Code
3 relating to the office of citizens' aide.

4 m. Chapter six hundred eighty-five (685) of the
5 Code relating to the clerk of the supreme court and
6 the court administrator of the judicial department.

7 Sec. 8. NEW SECTION.

8 1. The following state agencies shall be reviewed
9 as provided in section two (2) of this Act in 1985
10 and every six years thereafter: the commission on
11 uniform state laws, the Iowa crime commission, the
12 industrial commissioner, the state conservation
13 commission, the board of watchmaking examiners, the
14 state department of health, the Iowa board of speech
15 pathology and audiology examiners, the board of dental
16 examiners, the college aid commission, the state board
17 of regents, the department of revenue, the department
18 of banking, and the credit union review board.

19 2. The following are repealed effective July 1,
20 1986:

21 a. Chapter five (5) of the Code relating to the
22 commission on uniform state laws.

23 b. Chapter eighty C (80C) of the Code relating
24 to the Iowa crime commission.

25 c. Chapter eighty-six (86) of the Code relating
26 to the industrial commissioner.

27 d. Chapter one hundred seven (107) of the Code
28 relating to the state conservation commission.

29 e. Chapter one hundred twenty (120) of the Code
30 relating to the board of watchmaking examiners.

31 f. Chapter one hundred thirty-five (135) of the
32 Code relating to the state department of health.

33 g. Sections one hundred forty-seven point one
34 hundred fifty-one (147.151) through one hundred forty-
35 seven point one hundred fifty-six (147.156) of the
36 Code relating to the Iowa board of speech pathology
37 and audiology examiners.

38 h. Chapter one hundred fifty-three (153) of the
39 Code relating to the board of dental examiners.

40 i. Chapter two hundred sixty-one (261) of the
41 Code relating to the college aid commission.

42 j. Chapter two hundred sixty-two (262) of the
43 Code relating to the state board of regents.

44 k. Chapter four hundred twenty-one (421) of the
45 Code relating to the department of revenue.

46 l. Sections five hundred twenty-four point two
47 hundred one (524.201) through five hundred twenty-
48 four point two hundred twenty-seven (524.227) of the
49 Code relating to the department of banking.

50 m. Sections five hundred thirty-three point fifty-

1 one (533.51) through five hundred thirty-three point
2 sixty-two (533.62) of the Code relating to the credit
3 union review board.

4 Sec. 9. NEW SECTION.

5 1. The following state agencies shall be reviewed
6 as provided in section two (2) of this Act in 1986
7 and every six years thereafter: the legislative fiscal
8 bureau, the legislative service bureau, the upper
9 Mississippi riverway compact, the Iowa law enforcement
10 academy council, the bureau of labor, the energy
11 policy council, the department of job service, the
12 Iowa board of landscape architectural examiners, the
13 Iowa beer and liquor control department, the board
14 of medical examiners, the board of examiners for the
15 licensing and regulation of hearing aid dealers, the
16 Iowa state arts council, the state department of
17 transportation, and the commission on the status of
18 women.

19 2. The following are repealed effective July 1,
20 1987:

21 a. Sections two point forty-eight (2.48) through
22 two point fifty-two (2.52) of the Code relating to
23 the legislative fiscal bureau.

24 b. Sections two point fifty-eight (2.58) through
25 two point sixty-six (2.66) of the Code relating to
26 the legislative service bureau.

27 c. Chapter twenty-seven A (27A) of the Code
28 relating to the upper Mississippi riverway compact.

29 d. Chapter eighty B (80B) of the Code relating
30 to the Iowa law enforcement academy council.

31 e. Chapter ninety-one (91) of the Code relating
32 to the bureau of labor.

33 f. Chapter ninety-three (93) of the Code relating
34 to the energy policy council.

35 g. Chapter ninety-six (96) of the Code relating
36 to the department of job service.

37 h. Chapter one hundred eighteen A (118A) of the
38 Code relating to the Iowa board of landscape
39 architectural examiners.

40 i. Chapter one hundred twenty-three (123) of the
41 Code relating to the Iowa beer and liquor control
42 department.

43 j. Chapter one hundred forty-eight (148) of the
44 Code relating to the board of medical examiners.

45 k. Chapter one hundred fifty-four A (154A) of
46 the Code relating to the board of examiners for the
47 licensing and regulation of hearing aid dealers.

48 l. Chapter three hundred four A (304A) of the
49 Code relating to the Iowa state arts council.

50 m. Chapter three hundred seven (307) of the Code

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- 1 relating to the state department of transportation.
- 2 n. Chapter six hundred one (601) of the Code
- 3 relating to the commission on the status of women.
- 4 Sec. 10. NEW SECTION. This Act does not affect
- 5 the right to commence a cause of action by or against
- 6 a state agency terminated pursuant to this Act if
- 7 the cause of action accrued prior to the date the
- 8 agency is terminated. A cause of action pending when
- 9 or instituted after the agency is terminated shall
- 10 be commenced or defended in the name of the state
- 11 by the attorney general."
- 12 6. Page 3, line 28, by striking the word "four"
- 13 and inserting in lieu thereof the word "ten".
- 14 7. By renumbering the sections to conform with
- 15 this amendment.

H-3443 FILED *Ruled not germane 3/23* BY AVENSON of Fayette
MARCH 15, 1979 *(p. 1102)*

HOUSE FILE 679

H-3441

- 1 Amend House File 679 as follows:
- 2 1. Page 1, by inserting after line 16 the
- 3 following:
- 4 "Sec. 2. NEW SECTION. Every member of a board
- 5 established by law, which board has as its purpose
- 6 the licensing of a profession or occupation or the
- 7 admission to practice a profession, shall be subject
- 8 to confirmation by two-thirds of the members of the
- 9 senate after appointment by the governor or the supreme
- 10 court, as the case may be, as provided by law."
- 11 2. By renumbering the sections to conform with
- 12 this amendment.
- 13 3. Amend the title, line 2, by inserting after
- 14 the word "occupations" the words "and professions
- 15 and to effect uniformity among boards established
- 16 for that purpose".

H-3441 FILED *Ruled not germane 3/23* BY WOODS of Polk
MARCH 15, 1979 *(p. 1110)*

I-3447

1 Amend House File 679 as follows:

2 1. Page 1, by striking line 21 and inserting in
3 lieu thereof the following:

4 "a. Five senators, not more than three from any
5 political".

6 2. Page 1, by striking line 23 and inserting in
7 lieu thereof the following:

8 "b. Five representatives, not more than three
9 from any".

10 3. Page 1, line 26, by inserting after the word
11 "governor" the words "who shall be nonvoting members".

12 4. Page 2, line 12, by striking the words "or
13 continue to be".

14 5. Page 2, by striking lines 14 through 16 and
15 inserting in lieu thereof the words "be imposed."

16 6. Page 3, by inserting after line 27 the
17 following:

18 "Sec. 4. NEW SECTION. LEGISLATIVE REVIEW.

19 1. Before March first the committee on professional
20 and occupational regulation shall hold a public hearing
21 on each of the regulatory programs scheduled for
22 review in that year. At the public hearing the
23 committee on professional and occupational regulation
24 shall receive the testimony of the administrator of
25 the regulatory program and may receive reports from
26 other sources and interested citizens.

27 2. After the public hearing the committee on
28 professional and occupational regulation shall make
29 its recommendations to its house of the general
30 assembly regarding the purpose, operation and
31 continuing existence of the reviewed regulatory
32 programs. In making its recommendation on each
33 regulatory program reviewed, the committee on
34 professional and occupational regulation shall consider
35 the following:

36 a. If the absence of regulation would significantly
37 harm or endanger the public health, safety and welfare.

38 b. If there is a reasonable relationship between
39 the exercise of the state's police power through the
40 regulation and the protection of the public health,
41 safety or welfare.

42 c. If there is another less restrictive method
43 of regulation available which could adequately protect
44 the public.

45 d. If the regulation has the effect of directly
46 or indirectly increasing the costs of goods or services
47 involved and to what degree.

48 e. If the increase in cost is more harmful to
49 the public than the harm which could result from the
50 absence of regulation.

1 f. If all facets of the regulatory process are
2 designed solely for the purpose of, and have as their
3 primary effect, the protection of the public.

4 Sec. 5. NEW SECTION. SCHEDULE OF REVIEW.

5 1. a. The following regulatory programs shall
6 be reviewed in 1981 and every seven years thereafter:
7 the licensing of podiatrists, optometrists, physical
8 therapists, audiologists and speech pathologists,
9 and dentists and dental hygienists and the
10 certification of emergency medical technicians and
11 paramedics.

12 b. The following are repealed effective July 1,
13 1982:

14 (1) Chapter one hundred forty-nine (149) of the
15 Code, relating to podiatrists.

16 (2) Chapter one hundred fifty-four (154) of the
17 Code, relating to optometrists.

18 (3) Chapter one hundred forty-eight A (148A) of
19 the Code, relating to physical therapists.

20 (4) Sections one hundred forty-seven point one
21 hundred fifty-one (147.151) through one hundred forty-
22 seven point one hundred fifty-six (147.156) of the
23 Code, relating to audiologists and speech pathologists.

24 (5) Chapter one hundred fifty-three (153) of the
25 Code, relating to dentists and dental hygienists.

26 (6) Chapter one hundred forty-seven A (147A) of
27 the Code, relating to emergency medical technicians
28 and paramedics.

29 2. a. The following regulatory programs shall
30 be reviewed in 1982 and every seven years thereafter:
31 the licensing of barbers, cosmetologists, hearing
32 aid dealers, watchmakers, nursing home administrators,
33 private detectives, and funeral directors.

34 b. The following are repealed effective July 1,
35 1983:

36 (1) Chapter one hundred fifty-eight (158) of the
37 Code, relating to barbers.

38 (2) Chapter one hundred fifty-seven (157) of the
39 Code, relating to cosmetologists.

40 (3) Chapter one hundred fifty-four A (154A) of
41 the Code, relating to hearing aid dealers.

42 (4) Chapter one hundred twenty (120) of the Code,
43 relating to watchmakers.

44 (5) Chapter one hundred thirty-five E (135E) of
45 the Code, relating to nursing home administrators.

46 (6) Chapter eighty A (80A) of the Code, relating
47 to private detectives.

48 (7) Chapter one hundred fifty-six (156) of the
49 Code, relating to funeral directors.

50 3. a. The following regulatory programs shall

1 be reviewed in 1983 and every seven years thereafter:
2 the licensing of physicians and surgeons, osteopathic
3 physicians and surgeons, chiropractors, registered
4 and licensed practical nurses, psychologists and
5 associate psychologists, and pharmacists.

6 b. The following are repealed effective July 1,
7 1984:

8 (1) Chapter one hundred forty-eight (148) of the
9 Code, relating to physicians and surgeons.

10 (2) Chapters one hundred fifty (150) and one
11 hundred fifty A (150A) of the Code, relating to
12 osteopathic physicians and surgeons.

13 (3) Chapter one hundred fifty-one (151) of the
14 Code, relating to chiropractors.

15 (4) Chapter one hundred fifty-two (152) of the
16 Code, relating to registered and licensed practical
17 nurses.

18 (5) Chapter one hundred fifty-four B (154B) of
19 the Code, relating to psychologists and associate
20 psychologists.

21 (6) Chapter one hundred fifty-five (155) of the
22 Code, relating to pharmacists.

23 4. a. The following regulatory programs shall
24 be reviewed in 1984 and every seven years thereafter:
25 the licensing of professional engineers and land
26 surveyors, registered architects, landscape architects,
27 wastewater treatment plant operators, and real estate
28 brokers and salespersons.

29 b. The following are repealed effective July 1,
30 1985:

31 (1) Chapter one hundred fourteen (114) of the
32 Code, relating to professional engineers and land
33 surveyors.

34 (2) Chapter one hundred eighteen (118) of the
35 Code, relating to registered architects.

36 (3) Chapter one hundred eighteen A (118A) of the
37 Code, relating to landscape architects.

38 (4) Sections four hundred fifty-five B point fifty
39 (455B.50) through four hundred fifty-five B point
40 sixty-four (455B.64) of the Code, relating to
41 wastewater treatment plant operators.

42 (5) Chapter one hundred seventeen (117) of the
43 Code, relating to real estate brokers and salespersons.

44 5. a. The following regulatory programs shall
45 be reviewed in 1985 and every seven years thereafter:
46 the licensing of certified public accountants and
47 public accountants, insurance agents, securities
48 brokers and agents, and attorneys.

49 b. The following are repealed effective July 1,
50 1986:

1 (1) Chapter one hundred sixteen (116) of the Code,
2 relating to certified public accountants and public
3 accountants.

4 (2) Chapter five hundred twenty-two (522) of the
5 Code, relating to insurance agents.

6 (3) Chapter five hundred two (502) of the Code,
7 relating to securities brokers and agents.

8 (4) Chapter six hundred ten (610) of the Code,
9 relating to attorneys.

10 6. a. The following regulatory programs shall
11 be reviewed in 1986 and every seven years thereafter:
12 the licensing of veterinarians, pesticide applicators,
13 grain dealers, egg handlers, and milk and cream
14 graders.

15 b. The following are repealed effective July 1,
16 1987:

17 (1) Chapter one hundred sixty-nine (169) of the
18 Code, relating to veterinarians.

19 (2) Chapter two hundred six (206) of the Code,
20 relating to pesticide applicators.

21 (3) Chapter five hundred forty-two (542) of the
22 Code, relating to grain dealers.

23 (4) Chapter one hundred ninety-six (196) of the
24 Code, relating to egg handlers.

25 (5) Chapters one hundred ninety-four (194) and
26 one hundred ninety-five (195) of the Code, relating
27 to milk and cream graders.

28 7. a. The following regulatory programs shall
29 be reviewed in 1987 and every seven years thereafter:
30 the certification of teachers, supervisors, principals,
31 and superintendents in elementary and secondary
32 schools, and the certification of instructors in
33 merged area schools.

34 b. The following are repealed effective July 1,
35 1988:

36 (1) Chapter two hundred sixty (260) of the Code,
37 relating to instructors, teachers, principals,
38 supervisors and superintendents.

39 (2) Chapter two hundred seventy-two (272) of the
40 Code, relating to teachers.

41 (3) Section two hundred fifty-seven point ten
42 (257.10), subsection eleven (11) of the Code, relating
43 to instructors, teachers, administrators and
44 supervisors.

45 Sec. 6. NEW SECTION. ADDITIONAL REVIEWS. The
46 general assembly may by concurrent resolution direct
47 the committee on professional and occupational
48 regulation to review and make recommendations on a
49 state agency or program in addition to those scheduled
50 under section five (5) of this Act. An occupation

Page Five

H-3447

1 which is placed under state regulation after the
2 effective date of this Act shall be reviewed as
3 provided in this Act five years after being made
4 subject to regulation unless the general assembly
5 provides otherwise.

6 Sec. 7. NEW SECTION. ACTIONS PRESERVED. This
7 Act does not affect the right to prosecute a cause
8 of action by or against a state agency terminated
9 pursuant to this Act if the cause of action accrued
10 prior to the date the agency is terminated. A cause
11 of action pending when or instituted after the agency
12 is terminated shall be prosecuted and defended in
13 the name of the state by the attorney general."

14 7. Page 3, line 28, by striking the word "four"
15 and inserting in lieu thereof the word "ten".

H-3447 FILED *Lost as amended 3/23* BY ANDERSON of Jasper
MARCH 15, 1979 *(p. 1109)* LURA of Marshall

HOUSE FILE 679

H-3453

1 Amend House File 679 as follows:
2 1. Page 1, line 21, by striking the word "any"
3 and inserting in lieu thereof the words "the same".
4 2. Page 1, line 23, by striking the word "any"
5 and inserting in lieu thereof the words "the same".
6 3. Page 1, line 25, by striking the word "any"
7 and inserting in lieu thereof the words "the same".

H-3453 FILED *Adopted 3/26 (p. 1121)* BY HOFFMANN of Muscatine
MARCH 15, 1979

HOUSE FILE 679

H-3450

1 Amend House File 679 as follows:
2 1. Page 1, by inserting after line 16 the
3 following:
4 "4. The harm which could result from the
5 absence of regulation is greater than the harm
6 caused by the increase in cost."

H-3450 FILED *Lost 3/23 (p. 1094)* BY LURA of Marshall
MARCH 15, 1979

HOUSE FILE 679

H-3493

- 1 Amend House File 679 as follows:
- 2 1. Page 1, line 12, by striking the period and
- 3 inserting in lieu thereof the following: ", and".
- 4 2. Page 1, line 22, by inserting after the word
- 5 "party" the words "and not more than one from a
- 6 profession or occupation regulated by the state".
- 7 3. Page 1, line 24, by inserting after the word
- 8 "party" the words "and not more than one from a
- 9 profession or occupation regulated by the state".
- 10 4. Page 1, by striking line 26 and inserting in
- 11 lieu thereof the following: "party and not more than
- 12 one from a profession or occupation regulated by the
- 13 state, appointed by the governor, subject to con-
- 14 firmation by two-thirds of the members of the senate."
- 15 5. Page 2, line 4, by inserting after the word
- 16 "committee" the words "of the general assembly".
- 17 6. Page 2, line 12, by striking the words "become
- 18 or".
- 19 7. Page 2, line 16, by inserting after the word
- 20 "state." the following: "The committee shall
- 21 evaluate a particular profession or occupation which
- 22 is seeking regulation. The general assembly may, by
- 23 concurrent resolution, direct an evaluation of a
- 24 particular profession or occupation."
- 25 8. Page 2, line 21, by inserting after the word
- 26 "below" the words "and shall report their findings
- 27 to the general assembly".
- 28 9. Page 3, by inserting after line 27 the
- 29 following:
- 30 "i. Whether the profession or occupation is
- 31 required to be regulated by the federal government
- 32 or an agency thereof."
- 33 j. Whether the practitioner performs a service
- 34 for others which would qualify for payment of part
- 35 or all of those services by a third party if the
- 36 practitioner were to be regulated as provided in
- 37 this Act."

H-3493 FILED *11/18 3/23 (p. 1094)* BY SCHROEDER of Pottawattamie
MARCH 21, 1979

HOUSE FILE 679

H-3518

- 1 Amend House File 679 as follows:
- 2 1. Page 2, line 14, by inserting after the word
- 3 "imposed." the words "If the committee recommends
- 4 a continuation or imposition of regulation, the
- 5 committee shall recommend whether mandatory continuing
- 6 education should be required."

H-3518 FILED *Adopted 3/26 (p. 1122)* BY BENNETT of Ida
MARCH 22, 1979

HOUSE FILE 679

H-3455

- 1 Amend House File 679 as follows:
- 2 1. Page 2, line 9, by inserting after the word
- 3 "occupations" the words "not presently regulated by
- 4 the state".
- 5 2. Page 2, line 12, by striking the words "or
- 6 continue to be".
- 7 3. Page 2, by striking lines 14 through 16 and
- 8 inserting in lieu thereof the words "be imposed."

H-3455 FILED *Lost 3/26 (p. 1122)* BY TYRRELL of Iowa
MARCH 16, 1979

HOUSE FILE 679

H-3476

- 1 Amend the amendment, H-3447, to House File 679
- 2 as follows:
- 3 1. Page 1, line 4, by striking the word "any"
- 4 and inserting in lieu thereof the words "the same".
- 5 2. Page 1, line 9, by striking the word "any"
- 6 and inserting in lieu thereof the words "the same".
- 7 3. Page 1, by inserting after line 9 the following:
- 8 "3. Page 1, line 25, by striking the word "any"
- 9 and inserting in lieu thereof the words "the same"."
- 10 4. By renumbering the amendment to conform with
- 11 this amendment.

H-3476 FILED *Adopted 3/23 (p. 1108)* BY ANDERSON of Jasper...
MARCH 19, 1979

Sen. Stat. Book 3/29
Do Pass per 3377 4/4 (p.1085)

House File 679

State Government
Schwengels, Chairperson
E. Miller
Rodgers

HOUSE FILE 679

By COMMITTEE ON STATE GOVERNMENT

(As Amended and Passed by the House)

Passed House, Date 4-30-79 (p.1909) Passed Senate, Date 4-5-79 (p.1092)

Vote: Ayes 80 Nays 9 Vote: Ayes 44 Nays 1

Approved June 4 1979

A BILL FOR

1 An Act establishing a committee to review the regulation
2 of occupations.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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Conference Committee Appointed 5/7
Reprs. Hoffmann, chair; Brant, Crawford, Halverson, Hansen (p.2111)
Senators Holder, chair; Slater, Junkin, Schwengels; Nystrom 5/8 (p.1576)

_____ House Amendments

Passed per Conference Committee Report
House 5-10-79 (p.2290) Senate 5-10-79 (p.1664)
89-3 49-1

3377 >
struck

1 Section 1. NEW SECTION. INTENT. The general assembly
2 finds that the right of every person to engage in a lawful
3 occupation or profession is a right which should not be
4 abridged except as a reasonable exercise of the state's police
5 power when it is clearly found to be necessary for the
6 preservation of the health, safety, and welfare of the public.
7 It is declared to be the policy of the state of Iowa that
8 no regulation shall be imposed on a profession or occupa-
9 tion except for the exclusive purpose of protecting the public
10 interest when:

11 1. Its unregulated practice can harm or endanger the
12 health, safety, and welfare of the public.

13 2. Its practice requires specialized skill or training
14 and the public needs and will benefit by assurances of ini-
15 tial and continuing professional and occupational ability.

3407 >

16 3. The public is not effectively protected by other means.

17 Sec. 2. NEW SECTION. COMMITTEE ESTABLISHED.

18 1. There is created the "professional and occupational
19 regulation committee". The committee shall be bipartisan
20 and shall be composed of the following members:

21 a. Two senators, not more than one from the same political
22 party, appointed by the president of the senate.

23 b. Two representatives, not more than one from the same
24 political party, appointed by the speaker of the house.

25 c. Three persons, not more than two from the same political
26 party, appointed by the governor.

27 2. A committee member shall be appointed for a term of
28 four years. A member shall serve until a successor is ap-
29 pointed. A vacancy on the committee shall be filled by the
30 original appointing authority for the remainder of the term.
31 A vacancy shall exist whenever a committee member ceases to
32 be a member of the house from which the member was appointed.

33 3. The persons appointed by the governor, and the legis-
34 lative members when the general assembly is not in session,
35 shall be paid forty dollars per diem and travel expenses from

1 the funds appropriated by section two point twelve (2.12)
2 of the Code.

3407 3 4. The committee shall elect a chairperson and shall have
4 all the powers of a standing committee, but it may meet at
5 any time at the call of the chairperson or a majority of its
6 members.

7 Sec. 3. NEW SECTION. DUTIES.

3407 8 1. The committee on professional and occupational regula-
9 tion may evaluate professions and occupations according to
10 the criteria listed in section one (1) of this Act and make
11 a recommendation to the general assembly whether the profession
3407 12 or occupation should become or continue to be regulated by
13 the state and, if so, the degree of regulation that should
14 be imposed. If the committee recommends a continuation or
15 imposition of regulation, the committee shall recommend whether
16 mandatory continuing education should be required. The
407 17 committee shall adopt a time schedule for evaluating those
18 professions and occupations that are being regulated by the
19 state.

20 2. If the committee determines that existing remedies
21 do not adequately protect the public health, safety or welfare,
22 it shall consider the following degrees of regulation of the
23 practice of that occupation or profession in the order they
24 appear below:

25 a. Statutory change to provide stricter causes for civil
26 action and criminal prosecution.

27 b. Inspection of the practitioner's premises and activities
28 and authorization of an appropriate state agency to enjoin
29 an activity which is detrimental to the public health, safety
30 or welfare.

31 c. Registration of a practitioner's location, nature and
32 operation of practice.

33 d. Certification by an appropriate state agency that a
34 practitioner has the minimum skills to properly engage in
35 the occupation or profession.

1 e. Licensure by an appropriate state agency of the pro-
2 fession or occupation.

3 3. In determining the proper degree of regulation, if
3407-4 any, the committee shall determine the following:

5 a. Whether the practitioner performs a service for indivi-
6 duals which, if unregulated, involves a hazard to the public
7 health, safety or welfare.

8 b. The number of states which have regulatory provisions
9 similar to those proposed.

10 c. Whether the profession or occupation requires high
11 standards of public responsibility, character and performance
12 of each individual engaged in the profession or occupation,
13 as evidenced by established and published codes of ethics.

14 d. Whether the profession or occupation requires such
15 skill that the public generally is not qualified to select
16 a competent practitioner without some assurance that the
17 practitioner has met minimum qualifications.

18 e. Whether the professional or occupational associations
19 do not adequately protect the public from incompetent, un-
20 scrupulous or irresponsible members of the profession or
21 occupation.

22 f. Whether current laws which protect the public health,
23 safety and welfare generally are ineffective or inadequate.

24 g. Whether the characteristics of the profession or oc-
25 cupation make it impractical or impossible to prohibit those
26 practices of the profession or occupation which are detrimen-
27 tal to the public health, safety and welfare.

28 h. Whether the practitioner performs a service for others
29 which may have a detrimental effect on third parties rely-
30 ing on the expert knowledge of the practitioner.

31 Sec. 4. This Act is repealed four years after the effec-
32 tive date of this Act.

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S-3377

1 Amend House File 679 as amended, passed and
2 reprinted by the Senate as follows:

3 1. By striking all after the enacting clause and
4 inserting in lieu thereof the following:

5 "Section 1. NEW SECTION. INTENT. It is the
6 intent of the general assembly to provide methods
7 to review the performance and need for specific state
8 agencies. The general assembly finds that the right
9 of every person to engage in any lawful occupation
10 or profession is a right which should not be abridged
11 except as a reasonable exercise of the state's police
12 power when it is clearly found to be necessary for
13 the preservation of the health, safety, and welfare
14 of the public.

15 It is declared to be the policy of the state of
16 Iowa that regulation shall not be imposed on any
17 profession or occupation except for the exclusive
18 purpose of protecting the public interest when:

19 1. Their unregulated practice can harm or endanger
20 the health, safety, and welfare of the public and
21 when the potential for harm is recognizable and not
22 remote or dependent upon tenuous argument.

23 2. Their practice has inherent within it qualities
24 peculiar to it that distinguish it from ordinary work
25 and labor.

26 3. Their practice requires specialized skill or
27 training and the public needs and will benefit by
28 assurances of initial and continuing professional
29 and occupational ability.

30 4. The public is not effectively protected by
31 other means.

32 Sec. 2. NEW SECTION. COMMISSION ESTABLISHED.
33 There is established a commission on professional
34 and occupational regulation consisting of nine members.

35 1. Five members shall be citizens appointed by
36 the governor for terms of four years, except that
37 two of the initial appointments shall be for a term
38 of two years. Appointments to fill vacancies shall
39 be for the remainder of the unexpired term. A citizen
40 member shall not serve more than two consecutive
41 terms. Not more than two citizen members shall be
42 members of an occupation or profession licensed by
43 the state.

44 2. The attorney general, the commissioner of
45 public health, the director of the Iowa department
46 of job service, and the labor commissioner, or a
47 permanent representative appointed by any of them
48 from their respective staffs, shall be ex officio
49 members of the commission.

50 3. The commission shall organize annually and

S-3377
PAGE 2

1 elect a chairperson. The citizen members of the
2 commission shall be paid a forty dollar per diem and
3 all members of the commission shall be reimbursed
4 for their actual and necessary expenses.

5 Sec. 3. NEW SECTION. DUTIES.

6 1. The commission on professional and occupational
7 regulation may evaluate professions and occupations
8 not presently regulated by the state according to
9 the criteria listed in section one (1) of this Act
10 and make a recommendation to the general assembly
11 whether the profession or occupation should be
12 regulated by the state and, if so, the degree of
13 regulation that should be imposed. The general
14 assembly may, by concurrent resolution, direct an
15 evaluation by the commission of a particular profession
16 or occupation.

17 2. If the commission determines that existing
18 remedies for the practice of an occupation or
19 profession do not adequately protect the public health,
20 safety or welfare, it shall consider the following
21 degrees of regulation in the order they appear below:

22 a. Recommending a statutory change to provide
23 stricter causes for civil action and criminal
24 prosecution.

25 b. Recommending inspection of the practitioner's
26 premises and activities and authorization of an
27 appropriate state agency to enjoin an activity which
28 is detrimental to the public health, safety or welfare.

29 c. Recommending that practitioners be required
30 to register information concerning the location,
31 nature and operation of their practice.

32 d. Recommending that an appropriate state agency
33 may certify that a practitioner has the minimum skills
34 to properly engage in the occupation or profession
35 and that it knows of no character defect which would
36 make the person a bad practitioner.

37 e. Recommending that it be unlawful to practice
38 the profession or occupation without a license from
39 a state agency.

40 3. In determining the proper degree of regulation,
41 if any, the commission shall determine the following:

42 a. Whether the practitioner performs a service
43 for individuals involving a hazard to the public
44 health, safety or welfare, if unregulated.

45 b. The view of a substantial portion of the people
46 who do not practice the particular profession or
47 occupation.

48 c. The number of states which have regulatory
49 provisions similar to those proposed.

50 d. Whether there is sufficient demand for the

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PAGE 3

1 service for which there is no substitute not similarly
2 regulated and this service is required by a substantial
3 portion of the population.

4 e. Whether the profession or occupation requires
5 high standards of public responsibility, character
6 and performance of each individual engaged in the
7 profession or occupation, as evidenced by established
8 and published codes of ethics.

9 f. Whether the profession or occupation requires
10 such skill that the public generally is not qualified
11 to select a competent practitioner without some
12 assurance that he or she has met minimum
13 qualifications.

14 g. Whether the professional or occupational
15 associations do not adequately protect the public
16 from incompetent, unscrupulous or irresponsible members
17 of the profession or occupation.

18 h. Whether current laws which pertain to public
19 health, safety and welfare generally are ineffective
20 or inadequate.

21 i. Whether the characteristics of the profession
22 or occupation make it impractical or impossible to
23 prohibit those practices of the profession or
24 occupation which are detrimental to the public health,
25 safety and welfare.

26 j. Whether the practitioner performs a service
27 for others which may have a detrimental effect on
28 third parties relying on the expert knowledge of the
29 practitioner.

30 ~~Sec. 4. This Act is repealed four years after~~
31 its effective date.

32 Sec. 5. This Act is effective January first
33 following its enactment."

S-3377 FILED *W/drawn 4/5* BY COMMITTEE ON STATE GOVERNMENT
APRIL 4, 1979 (*1091*) JOHN NYSTROM, CHAIRPERSON

HOUSE FILE 679

S-3407

1 Amend House File 679 as amended, passed and
2 reprinted by the House as follows:

3 1. Page 1, by inserting after line 15 the
4 following:

5 "3. Its practice has inherent within it qualities
6 peculiar to it that distinguishes it from ordinary
7 work and labor."

8 2. Page 1, by striking line 17 through page 2,
9 line 6, and inserting in lieu thereof the following:

10 "Sec. 2. NEW SECTION. COMMISSION ESTABLISHED.

11 1. There is created a commission on professional
12 and occupational regulation. The commission shall
13 be bipartisan and shall be composed of the following
14 members:

15 a. Two senators, not more than one from the same
16 political party, appointed by the president of the
17 senate.

18 b. Two representatives, not more than one from
19 the same political party, appointed by the speaker
20 of the house.

21 c. Five persons, not more than three from the
22 same political party, appointed by the governor and
23 confirmed by two-thirds of the members of the senate.

24 2. A commission member shall be appointed for
25 a term of four years. A member shall serve until
26 a successor is appointed. A vacancy on the commission
27 shall be filled by the original appointing authority
28 for the remainder of the term. A vacancy shall exist
29 whenever a commission member ceases to be a member
30 of the house from which the member was appointed.
31 A member of the commission shall not be a member of
32 a licensed profession or occupation.

33 3. The persons appointed by the governor, and
34 the legislative members when the general assembly
35 is not in session, shall be paid forty dollars per
36 diem and actual and necessary expenses.

37 4. The commission shall organize annually and
38 elect a chairperson."

39 3. Page 2, line 8, by striking the word "committee"
40 and inserting in lieu thereof the word "commission".

41 4. Page 2, line 9, by inserting after the word
42 "occupations" the words "which are not regulated by
43 the state".

44 5. Page 2, line 12, by striking the words "or
45 continue to be".

46 6. Page 2, by striking lines 14 through 19 and
47 inserting in lieu thereof the following: "be imposed.

48 The commission shall evaluate an occupation or
49 profession which is seeking to be regulated. The
50 general assembly may, by concurrent resolution, direct

DIV.
A

DIV.
B

S-3407
PAGE 2

DIV
B

1 an evaluation of a particular occupation or profession
2 including those which are regulated by the state.
3 The commission shall file an annual report of its
4 evaluations and recommendations with the chief clerk
5 of the house of representatives and the secretary
6 of the senate upon the convening of each session of
7 the general assembly."

8 7. Page 2, line 20, by striking the word
9 "committee" and inserting in lieu thereof the word
10 "commission".

11 8. Page 3, line 4, by striking the word "committee"
12 and inserting in lieu thereof the word "commission".

13 9. Page 3, by inserting after line 30 the follow-
14 ing:

15 "i. Whether the profession or occupation is re-
16 quired to be regulated by the federal government or
17 an agency thereof.

18 j. Whether the practitioner performs a service
19 for others which would qualify for payment of part
20 or all of those services by a third party if the
21 practitioner were to be regulated as provided in this
22 Act.

23 k. Whether there is sufficient demand for the
24 service for which there is no substitute which is
25 not similarly regulated and this service is required
26 by a substantial portion of the population.

27 l. The view of a substantial portion of the people
28 who do not practice the particular profession or
29 occupation."

30 10. Page 3, by inserting after line 32 the follow-
31 ing:

32 "Sec. 5. In making the initial appointments under
33 section two (2) of this Act, the governor shall appoint
34 two of the five citizen members to terms of two years."

35 11. By renumbering and relettering the sections
36 and paragraphs to conform with this amendment.

S-3407 FILED
APRIL 5, 1979
DIVISION A - ADOPTED (p. 1091)
DIVISION B - ADOPTED

BY EDGAR H. HOLDEN
LOWELL L. JUNKINS
FORREST SCHWENGELS
ROBERT M. CARR

HOUSE FILE 679

H-3954

- 1 Amend the Senate amendment H-3810, to House
2 File 679, as passed by the House and reprinted, as
3 follows:
4 1. Page 1, by striking line 41 through page 2
5 line 7 and inserting in lieu thereof the following:
6 "4. Page 2, line 14, by striking the word
7 "committee" and inserting in lieu thereof the word
8 "commission".
9 5. Page 2, line 15, by striking the word
10 "committee" and inserting in lieu thereof the word
11 "commission".
12 6. Page 2, line 17, by striking the word
13 "committee" and inserting in lieu thereof the word
14 "commission"."

H-3954 FILED *Adopted 4/30 (p. 1909)* BY CRAWFORD of Story
APRIL 17, 1979

HOUSE AMENDMENT TO SENATE AMENDMENT TO HOUSE FILE 679

S-3674

- 1 Amend the Senate amendment H-3810, to House File
2 679, as passed by the House and reprinted, as follows:
3 1. Page 1, by striking line 41 through page 2
4 line 7 and inserting in lieu thereof the following:
5 "4. Page 2, line 14, by striking the word
6 "committee" and inserting in lieu thereof the word
7 "commission".
8 5. Page 2, line 15, by striking the word
9 "committee" and inserting in lieu thereof the word
10 "commission".
11 6. Page 2, line 17, by striking the word
12 "committee" and inserting in lieu thereof the word
13 "commission"."

S-3674 FILED
MAY 2, 1979

RECEIVED FROM THE HOUSE

*Senate refused to concur 5/3 (p. 1525)
House insisted 5/7 (p. 2110)*

SENATE AMENDMENT TO
HOUSE FILE 679

H-3810

1 Amend House File 679 as amended, passed and
2 reprinted by the house as follows:

3 1. Page 1, by inserting after line 15 the
4 following:

5 "3. Its practice has inherent within it qualities
6 peculiar to it that distinguishes it from ordinary
7 work and labor."

8 2. Page 1, by striking line 17 through page 2,
9 line 6, and inserting in lieu thereof the following:

10 "Sec. 2. NEW SECTION. COMMISSION ESTABLISHED.

11 1. There is created a commission on professional
12 and occupational regulation. The commission shall
13 be bipartisan and shall be composed of the following
14 members:

15 a. Two senators, not more than one from the same
16 political party, appointed by the president of the
17 senate.

18 b. Two representatives, not more than one from
19 the same political party, appointed by the speaker
20 of the house.

21 c. Five persons, not more than three from the
22 same political party, appointed by the governor and
23 confirmed by two-thirds of the members of the senate.

24 2. A commission member shall be appointed for
25 a term of four years. A member shall serve until
26 a successor is appointed. A vacancy on the commission
27 shall be filled by the original appointing authority
28 for the remainder of the term. A vacancy shall exist
29 whenever a commission member ceases to be a member
30 of the house from which the member was appointed.
31 A member of the commission shall not be a member of
32 a licensed profession or occupation.

33 3. The persons appointed by the governor, and
34 the legislative members when the general assembly
35 is not in session, shall be paid forty dollars per
36 diem and actual and necessary expenses.

37 4. The commission shall organize annually and
38 elect a chairperson."

39 3. Page 2, line 8, by striking the word "committee"
40 and inserting in lieu thereof the word "commission".

41 4. Page 2, line 9, by inserting after the word
42 "occupations" the words "which are not regulated by
43 the state".

44 5. Page 2, line 12, by striking the words "or
45 continue to be".

46 6. Page 2, by striking lines 14 through 19 and
47 inserting in lieu thereof the following: "be imposed.
48 The commission shall evaluate an occupation or
49 profession which is seeking to be regulated. The
50 general assembly may, by concurrent resolution, direct

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1 an evaluation of a particular occupation or profession
2 including those which are regulated by the state.
3 The commission shall file an annual report of its
4 evaluations and recommendations with the chief clerk
5 of the house of representatives and the secretary
6 of the senate upon the convening of each session of
7 the general assembly."

3954 {
8 7. Page 2, line 20, by striking the word
9 "committee" and inserting in lieu thereof the word
10 "commission".

11 8. Page 3, line 4, by striking the word "committee"
12 and inserting in lieu thereof the word "commission".

13 9. Page 3, by inserting after line 30 the follow-
14 ing:

3954-
15 "i. Whether the profession or occupation is re-
16 quired to be regulated by the federal government or
3954- 17 an agency thereof.

18 j. Whether the practitioner performs a service
19 for others which would qualify for payment of part
20 or all of those services by a third party if the
21 practitioner were to be regulated as provided in this
22 Act.

23 k. Whether there is sufficient demand for the
24 service for which there is no substitute which is
25 not similarly regulated and this service is required
26 by a substantial portion of the population.

27 l. The view of a substantial portion of the people
28 who do not practice the particular profession or
29 occupation."

30 10. Page 3, by inserting after line 32 the follow-
31 ing:

32 "Sec. 5. In making the initial appointments under
33 section two (2) of this Act, the governor shall appoint
34 two of the five citizen members to terms of two years."

35 11. By renumbering and relettering the sections
36 and paragraphs to conform with this amendment.

H-3810 FILED APRIL 9, 1979

RECEIVED FROM THE SENATE

*House amended & concurred
4/30 (p. 1909)*

REPORT OF THE CONFERENCE COMMITTEE
ON HOUSE FILE 679

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the conference committee appointed to consider the differences between the Senate and the House of Representatives on House File 679, a bill for an Act establishing a committee to review the regulation of occupations, respectfully make the following report:

1. That the House recede from its amendment S-3674 to the Senate amendment H-3810 to House File 679 as amended, passed and reprinted by the House.

2. That the Senate amendment H-3810 to House File 679 as amended, passed and reprinted by the House be amended as follows:

1. Page 1, line 36, by inserting after the word "expenses" the words "from funds appropriated by section two point twelve (2.12) of the Code".

2. Page 1, by striking line 39 through page 2, line 7, and inserting in lieu thereof the following:

"3. Page 2, by striking lines 8 through 19 and inserting in lieu thereof the following:

"1. The commission on professional and occupational regulation shall evaluate those professions and occupations seeking to become regulated and may evaluate those professions and occupations which are regulated according to the criteria listed in section one (1) of this Act. The general assembly may, by concurrent resolution, direct that the commission undertake or not undertake an evaluation of a profession or occupation. Upon completion of an evaluation, the commission shall make a recommendation to the general assembly whether the profession or occupation should become or continue to be regulated by the state and the degree of regulation that should be imposed. If the commission recommends a continuation

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or imposition of regulation, the commission shall recommend whether continuing education should be required. The commission shall file an annual report of its evaluations and recommendations with the chief clerk of the house of representatives and the secretary of the senate upon the convening of each session of the general assembly."

3. Page 2, by inserting after line 36 the following:

"___. Amend the title, line 1, by striking the word "committee" and inserting in lieu thereof the word "commission"."

ON THE PART OF THE HOUSE:

BETTY A. HOFFMANN, Chair
REID CRAWFORD
ROD HALVORSON
INGWER HANSEN

ON THE PART OF THE SENATE:

EDGAR HOLDEN, Chair
TOM SLATER
LOWELL JUNKINS
FORREST V. SCHWENGELS
JOHN N. NYSTROM

FILED MAY 10, 1979

House adopted 5/10 (p. 2290)
Senate adopted 5/10 (p. 1663)

HOUSE FILE 679

AN ACT

ESTABLISHING A COMMISSION TO REVIEW THE REGULATION OF OCCUPATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. INTENT. The general assembly finds that the right of every person to engage in a lawful occupation or profession is a right which should not be abridged except as a reasonable exercise of the state's police power when it is clearly found to be necessary for the preservation of the health, safety, and welfare of the public.

It is declared to be the policy of the state of Iowa that no regulation shall be imposed on a profession or occupation except for the exclusive purpose of protecting the public interest when:

1. Its unregulated practice can harm or endanger the health, safety, and welfare of the public.
2. Its practice requires specialized skill or training and the public needs and will benefit by assurances of initial and continuing professional and occupational ability.
3. Its practice has inherent within it qualities peculiar to it that distinguishes it from ordinary work and labor.
4. The public is not effectively protected by other means.

Sec. 2. NEW SECTION. COMMISSION ESTABLISHED.

1. There is created a commission on professional and occupational regulation. The commission shall be bipartisan and shall be composed of the following members:

- a. Two senators, not more than one from the same political party, appointed by the president of the senate.
- b. Two representatives, not more than one from the same political party, appointed by the speaker of the house.
- c. Five persons, not more than three from the same political party, appointed by the governor and confirmed by two-thirds of the members of the senate.

2. A commission member shall be appointed for a term of four years. A member shall serve until a successor is appointed. A vacancy on the commission shall be filled by the original appointing authority for the remainder of the term. A vacancy shall exist whenever a commission member ceases to be a member of the house from which the member was appointed. A member of the commission shall not be a member of a licensed profession or occupation.

3. The persons appointed by the governor, and the legislative members when the general assembly is not in session, shall be paid forty dollars per diem and actual and necessary expenses from funds appropriated by section two point twelve (2.12) of the Code.

4. The commission shall organize annually and elect a chairperson.

Sec. 3. NEW SECTION. DUTIES.

1. The commission on professional and occupational regulation shall evaluate those professions and occupations seeking to become regulated and may evaluate those professions and occupations which are regulated according to the criteria listed in section one (1) of this Act. The general assembly may, by concurrent resolution, direct that the commission undertake or not undertake an evaluation of a profession or occupation. Upon completion of an evaluation, the commission

shall make a recommendation to the general assembly whether the profession or occupation should become or continue to be regulated by the state and the degree of regulation that should be imposed. If the commission recommends a continuation or imposition of regulation, the commission shall recommend whether continuing education should be required. The commission shall file an annual report of its evaluations and recommendations with the chief clerk of the house of representatives and the secretary of the senate upon the convening of each session of the general assembly.

2. If the commission determines that existing remedies do not adequately protect the public health, safety or welfare, it shall consider the following degrees of regulation of the practice of that occupation or profession in the order they appear below:

- a. Statutory change to provide stricter causes for civil action and criminal prosecution.
- b. Inspection of the practitioner's premises and activities and authorization of an appropriate state agency to enjoin an activity which is detrimental to the public health, safety or welfare.
- c. Registration of a practitioner's location, nature and operation of practice.
- d. Certification by an appropriate state agency that a practitioner has the minimum skills to properly engage in the occupation or profession.
- e. Licensure by an appropriate state agency of the profession or occupation.

3. In determining the proper degree of regulation, if any, the commission shall determine the following:

- a. Whether the practitioner performs a service for individuals which, if unregulated, involves a hazard to the public health, safety or welfare.
- b. The number of states which have regulatory provisions similar to those proposed.

c. Whether the profession or occupation requires high standards of public responsibility, character and performance of each individual engaged in the profession or occupation, as evidenced by established and published codes of ethics.

d. Whether the profession or occupation requires such skill that the public generally is not qualified to select a competent practitioner without some assurance that the practitioner has met minimum qualifications.

e. Whether the professional or occupational associations do not adequately protect the public from incompetent, unscrupulous or irresponsible members of the profession or occupation.

f. Whether current laws which protect the public health, safety and welfare generally are ineffective or inadequate.

g. Whether the characteristics of the profession or occupation make it impractical or impossible to prohibit those practices of the profession or occupation which are detrimental to the public health, safety and welfare.

h. Whether the practitioner performs a service for others which may have a detrimental effect on third parties relying on the expert knowledge of the practitioner.

i. Whether the profession or occupation is required to be regulated by the federal government or an agency thereof.

j. Whether the practitioner performs a service for others which would qualify for payment of part or all of those services by a third party if the practitioner were to be regulated as provided in this Act.

k. Whether there is sufficient demand for the service for which there is no substitute which is not similarly regulated and this service is required by a substantial portion of the population.

l. The view of a substantial portion of the people who do not practice the particular profession or occupation.

Sec. 4. This Act is repealed four years after the effective date of this Act.

Sec. 5. In making the initial appointments under section two (2) of this Act, the governor shall appoint two of the five citizen members to terms of two years.

FLOYD H. MILLEN
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 679, Sixty-eighth General Assembly.

DAVID L. WRAY
Chief Clerk of the House

Approved June 4, 1979

ROBERT D. RAY
Governor